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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,322

12/04/2003

Steven Baker

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EXAMINER

HAIDER, FAWAAD

ART UNIT

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3627

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DELIVERY MODE

08/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/728,322	Applicant(s) BAKER ET AL.	
	Examiner FAWAAD HAIDER	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8 and 10-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8 and 10-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/14/2008 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation, "storing at said.... containers suitable for use..." is ambiguous as suitable for use is not clearly defined.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1 and 3-7 are rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying

subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876). The process steps in claims (1 and 3-7) are not tied to another statutory class nor do they execute a transformation. Thus, they are non-statutory.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-8, and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura et al (2002/0069141) in view of Beal et al (6,634,506) and Okamura et al (2002/0161878) and Peachey-Kountz et al (6,463,345).

Re Claims 1, 8, 10: Kawamura discloses calculating by said manufacturer a container allocation quantity for each of said plurality of suppliers, wherein said container allocation quantity for each supplier varies for each supplier according to said

supplier's parts demand value as determined by said manufacturer's production schedule and said supplier's container allocated days number (see [0012, 0016]); determining by said manufacturer a supplier on-hand container inventory quantity for each of said plurality of suppliers (see [0012, 0017]); determining by said manufacturer for each of said plurality of suppliers an actual container quantity based on said container allocation quantity and said supplier on-hand container inventory quantity for each of said suppliers (see [0036, 0037]); releasing from said container inventory holding area to each of said plurality of suppliers a number of containers equal to said actual container quantity wherein said containers are released by said manufacturer according to said actual container quantity determined by said manufacturer (see Figures 2-3, Abstract). However, Kawamura fails to disclose the following limitations.

Beal discloses creating at least one container inventory holding area in said manufacturer's supply chain (see Figures 4-5); Beal discloses storing at said container inventory holding area a plurality of containers suitable for use by a plurality of suppliers in said manufacturer's supply chain (see Figures 4-5). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kawamura's invention with Beal's disclosure of inventory holding areas in order to allow for efficient "shipping, storing, and distributing the containers themselves, leading to increased efficiency, productivity, and predictability (See Beal col.3, lines 3-7)."

Both Kawamura and Beal fail to disclose the following limitations: a container allocated days number, determining a process flow of containers, and determining a parts demand value.

Okamura discloses determining for each of said plurality of suppliers a container allocated days number, said container allocated days number for each supplier comprising a number of days a container remains in said supplier's on-hand container inventory to meet said manufacturer's demand for parts over a specified period of time, said container allocated days number determined by manufacturer (see Figures 10-13). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kawamura's and Beal's inventions with Okamura's disclosure of a container allocated days number in order "to allow physical distribution of the returnable containers to be managed at the management center on a comprehensive basis (See Okamura Abstract)."

Peachey-Kountz also discloses where it comprises determining a process flow of containers for each of said plurality of suppliers (see Abstract, col.3, lines 61-65). Finally, Peachey-Kountz discloses determining for each of said plurality of suppliers a parts demand value, said parts demand value for each supplier based on said manufacturer's actual requirement for parts from said supplier according to said manufacturer's production schedule, said parts demand value determined by said manufacturer (see Abstract, col.1, lines 21-28).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify both Kawamura, Beal and Okamura with Peachey-Kountz' disclosure of a process flow and a parts demand value in order to "provide the tool users with the power to micro-manage, optimally, enterprise assets and demands (See Peachey-Kountz Abstract)."

Re Claims 4, 11: Kawamura discloses further comprising adjusting said actual container quantity for one of said plurality of suppliers based on a request from said supplier (see [0020, 0032, 0036]).

Re Claims 5-6, 12-13: Beal discloses wherein said supplier on-hand container inventory quantity comprises empty containers at said supplier's facility, or in-transit to said supplier's facility, and full containers waiting to ship, or in-transit to said manufacturer's facility (see Figures 3-4). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kawamura's invention with Beal's disclosure of inventory holding areas in order to allow for efficient "shipping, storing, and distributing the containers themselves, leading to increased efficiency, productivity, and predictability (See Beal col.3, lines 3-7)."

Re Claims 7, 14: Beal discloses wherein said inventory holding area is of the type returnable container center (see Figures 4-5). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kawamura's invention with Beal's disclosure of inventory holding areas in order to allow for efficient "shipping, storing, and distributing the containers themselves, leading to increased efficiency, productivity, and predictability (See Beal col.3, lines 3-7)."

Response to Arguments

7. Applicant's arguments with respect to claims 1, 3-8, and 10-14 on 6/16/08 have been fully considered but are not persuasive. Applicant first argues that Okamura does not teach a container allocation quantity determined by the manufacturer. Nowhere in

the rejection does the Examiner state this, rather, the Examiner relies on Okamura to teach a container allocated days number. Then, the applicant argues that Kawamura is silent on how a container level for each supplier should be determined. In [0016] in Kawamura, it discloses “calculating product inventory balance from a desired number of stock based on the request to ship at least one product and the inventory information database of the products and transmitting the product-shipping notice to the manufacturer via the computer network to urge the manufacturer to make the products if the stock of the products is below a predetermined level.”

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fawaad Haider whose telephone number is 571-272-7178. The examiner can normally be reached on Monday-Friday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627

/Fawaad Haider/
Examiner
Art Unit 3627

FIH